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TITLE 10—ARMY WAR DEPARTMENT

Chapter III—Claims and Accounts

PART 306—CLAIMS AGAINST THE UNITED STATES

MUSTERING-OUT PAYMENTS

In § 306.75 (b) revise subparagraphs (7) and (8) and add subparagraph (9) as follows:

§ 306.75 *Mustering-out payments.* * * *

(b) *To whom not payable.* * * *

(7) Any member of the armed forces whose sole service has been as a cadet at the United States Military Academy or in a preparatory school after nomination as a principal, alternate, or candidate for admission to the Academy.

(8) Any commissioned officer unless he is discharged or relieved from active service within 3 years after the termination of the present war as proclaimed by the President; and

(9) Any person entering upon active service, or enlisting, on or after July 1, 1947. See section 1 (b) act February 3, 1944 (58 Stat. 8; 38 U. S. C., Supp., 691a) as amended by section 6, act June 28, 1947 (Public Law 128—80th Cong.)

[AR 35-2490, Feb. 20, 1946 as amended by C5, Aug. 12, 1947] (58 Stat. 8; 38 U. S. C., Sup. 691a)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-8271; Filed, Sept. 8, 1947; 8:45 a. m.]

Chapter V—Military Reservations and National Cemeteries

PART 501—LIST OF EXECUTIVE ORDERS, PROCLAMATIONS, AND PUBLIC LAND ORDERS AFFECTING MILITARY RESERVATIONS

REVOCATION OF WITHDRAWAL OF CERTAIN PUBLIC LANDS FOR WAR DEPARTMENT USE AS AERIAL GUNNERY AND BOMBING RANGES

CROSS REFERENCE: For order affecting the tabulation contained in § 501.1, see Public Land Order 403 under Title 43, *infra*, revoking in part Public Land Order 164 of September 6, 1943, which withdrew certain public lands for the use of the War Department as aerial gunnery and bombing ranges.

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 04a-8]

PART 04a—AIRPLANE AIRWORTHINESS

FIRE PREVENTION IN AIR CARRIER AIRCRAFT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 29th day of August 1947.

A review of the fire prevention regulations adopted by the Civil Aeronautics Board under Amendment 04a-4, effective November 1, 1946, reveals that practical application of these regulations requires some clarification and a change in substance.

Amendment 04a-4 made certain sections of Part 04b, on fire prevention, applicable to Part 04a. Although the following amendment in itself is for clarification only, adoption by the Board on this date of an amendment to Part 04b introduces a change in substance into the fire prevention regulations of Part 04a by requiring fire detectors in the engine power section.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and full consideration has been given to all relevant matters presented.

Pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) 601, and 603 thereof, the Civil Aeronautics Board hereby amends Part 04a of the Civil Air Regulations (14 CFR, Part 04a, as amended) as follows:

Effective September 29, 1947, Part 04a of the Civil Air Regulations is amended as follows:

1. By deleting from the second paragraph of § 04a.062 the words: "of the Part 04 of the Civil Air Regulations which part was adopted November 9, 1945:" and by substituting in lieu thereof: "of Part 04b of the Civil Air Regulations, as amended:"

2. By deleting from the second paragraph of § 04a.062: "(a) and (c)" which immediately follows the numeral 04.491.

(Continued on next page)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

[1] P L. O. 403.

(52 Stat. 984, 1007, 1009; 49 U. S. C. 425, 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8280; Filed, Sept. 8, 1947; 8:46 a. m.]

[Civil Air Regs. Amdt. 04b-7]

PART 04b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

FIRE PREVENTION IN AIR CARRIER AIRCRAFT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 29th day of August 1947.

A review of the fire prevention regulations adopted by the Civil Aeronautics Board under Amendment 04b-1, effective November 1, 1946, reveals that practical application of these regulations requires some clarification and a change in substance. The change in substance requires fire detectors in the engine power section.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and full consideration has been given to all relevant matters presented.

Pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) 601, and 603 thereof, the Civil Aeronautics Board hereby amends Part 04b of the Civil Air Regulations (14 CFR, Part 04b, as amended) as follows:

Effective September 29, 1947, Part 04b of the Civil Air Regulations is amended as follows:

1. By deleting from the fourth paragraph of § 04b.00: "(a) and (c)" which immediately follows the numeral 04.491.

2. By amending § 04b.49 to read as follows:

§ 04b.49 *Power plant fire protection.* Designated fire zones comprise the following regions:

Engine power section.

Engine accessory section.

Complete power plant compartments in which no isolation is provided between the engine power section and the engine accessory section.

Auxiliary power unit compartments.

Fuel-burning heater and other combustion equipment installations.

Such zones shall be protected from fire by compliance with the following requirements.

3. By deleting from the first sentence of § 04b.4901 the words: "factory-fixed detachable or other approved fire-resistant ends." and inserting in lieu thereof the words: "end fittings of the permanently attached, detachable, or other approved types."

4. By adding the following clause at the end of the last sentence of § 04b.491 (a) "except in the case of an engine power section which is completely isolated from the engine accessory section by a fireproof diaphragm complying with the provisions of § 04b.4700."

5. By amending § 04b.491 (b) to read as follows:

(b) The fire extinguishing system, the quantity of extinguishing agent, and the rate of discharge shall be such as to provide two adequate discharges. It shall be possible to direct both discharges to any main engine installation. Individual "one-shot" systems shall be acceptable in the case of auxiliary power units, fuel-burning heaters, and other combustion equipment.

(52 Stat. 984, 1007; 1009; 49 U. S. C. 425, 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-8273; Filed, Sept. 8, 1947; 8:46 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

Subchapter B—Statements of General Policy or Interpretation Not Directly Related to Regulations

PART 780—AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES AND RELATED SUBJECTS

SUBPART B—FORESTRY OR LUMBERING OPERATIONS INCIDENT TO OR IN CONJUNCTION WITH FARMING OPERATIONS

Sec.

SUBPART C—FARMERS' COOPERATIVE ASSOCIATIONS

AUTHORITY: §§ 780.60 to 780.82, inclusive, issued under 53 Stat. 1060; 29 U. S. C., 201 et seq.

SUBPART B—FORESTRY OR LUMBERING OPERATIONS INCIDENT TO OR IN CONJUNCTION WITH FARMING OPERATIONS

§ 780.60 *Introductory statement.* (a) Since the enactment of the Fair Labor Standards Act of 1938, (52 Stat. 1060; 29 U. S. C. 201 et seq.) the views of the Administrator as to that portion of section 3 (f) of the act which refers to forestry or lumbering operations have been expressed in interpretations issued from time to time in various forms. These interpretations were always issued with the understanding that they were only advisory, so far as the rights and liabilities of employers and employees were concerned, because the courts alone had the authority to make legally binding interpretations. However, the Portal-to-Portal Act of 1947[1] contemplates that interpretations of the Administrator will now, under certain circumstances, be controlling in determining such rights and liabilities in the courts. This has made it necessary, for the protection of employees and employers who may seek to reply on the Administrator's interpretations, that interpretations previously issued concerning that portion of section 3 (f) of the Fair Labor Standards Act which refers to forestry or lumbering operations be reexamined in order to determine whether they now correctly interpret the law in the light of developments subsequent to their issuance, and that the Administrator's position be clarified for the future. This subpart, as of the date of its publication in the FEDERAL REGISTER, supersedes and replaces such prior interpretations. Its purpose is to make available in one place general interpretations of the Administrator which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it."[2] The interpretations contained in this subpart indicate, with respect to that portion of section 3 (f) of the Fair Labor Standards Act which refers to forestry or lumbering operations, the construction of the law which the Administrator believes to be correct and which will guide him in the performance of his administrative duties under the act unless and until he is otherwise directed by authoritative decisions of the courts or concludes, upon re-examination of an interpretation, that it is incorrect.

(b) Effective on the date of publication of this subpart in the FEDERAL REGISTER, all prior general and specific interpretations contained in interpretative bulletins, releases, opinion letters and other statements issued with respect to that portion of section 3 (f) of the Fair Labor Standards Act which refers to forestry or lumbering operations are rescinded and withdrawn. An interpretation so rescinded and withdrawn shall not hereafter constitute an interpretation of the Administrator unless and until it is reissued as such. However, the action of the Administrator in rescinding or withdrawing any such prior interpretation or his omission to discuss a particular problem in this subpart or in interpretations supplementing it does not constitute an administrative interpretation or practice or enforcement policy.

§ 780.61 *Scope of subpart.* This subpart relates to the interpretation of that portion of section 3 (f) of the Fair Labor Standards Act which refers to forestry or lumbering operations. The question of when employees are engaged "in (interstate) commerce" or in the "production of goods for (interstate) commerce" so as to be entitled to the benefit of the act is not within the scope of this subpart. For statements as to the coverage of the act reference is made to Part 776 of this chapter. Nor will this subpart define the scope of the expression "forestry or lumbering operations." For present purposes it will be assumed that it refers to the cultivation and management of forests, the felling and trimming of timber, the cutting, hauling, and transportation of timber, logs, bolts, cordwood, lumber, and like products, the sawing of logs into lumber or the conversion of logs into ties, posts, and similar products, and similar operations.

§ 780.62 *Not all forestry and lumbering operations exempt.* Section 13 (a) (6) of the Fair Labor Standards Act exempts from both the wage and hours provisions "any employee employed in agriculture."

Agriculture is defined in section 3 (f) as follows:

"Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

While "agriculture" is sometimes used in a broad sense as including the science and art of cultivating forests, its application has been limited in section 3 (f). The language of that section clearly indicates that forestry and lumbering operations are practices which will be considered agricultural only if "performed by a farmer or on a farm as an incident to or in conjunction with such farming operations." It follows that employees of an employer engaged exclusively in forestry or lumbering operations are not within the exemption of sections 13 (a) (6) and 3 (f)

§ 780.63 *What constitute forestry and lumbering operations "incident to or in conjunction with" farming operations.* (a) The line between forestry or lumbering operations which are "incident to or in conjunction with" farming operations, and those which are not, is not susceptible of precise definition. The agricultural exemption, however, would seem to include forestry or lumbering operations only when they constitute a subordinate and established part of the farming activities. Factors that would indicate that forestry or lumbering operations performed by a farmer are thus subordinate would be, among other things, that most of the employees engaged in such operations are normally employed also in farming operations upon the farm, and that the forestry or lumbering operations occupy only a minor portion of the time of the farmer and his employees.

(b) It seems clear that the exemption provided by sections 13 (a) (6) and 3 (f) was not intended to include lumbering operations which constitute the principal business of the "farmer." Thus, where an employer owns several thousand acres of timberland on which he carries on lumbering operations and cultivates about 100 acres of farm land which are contiguous to such timberland,

[1] Pub. Law 49, 80th Cong., Chap. 52, 1st Sess.

[2] Skidmore v. Swift & Co., 324 U. S. 134.

he would not appear to be entitled to the benefit of the exemption so far as his forestry or lumbering operations are concerned. While section 3 (f) speaks of forestry or lumbering operations performed "in conjunction with" as well as "incident to" farming operations, it would seem to be an unreasonable construction of the act to hold that lumbering operations were to be regarded as agricultural if the lumber operator did any farming, no matter how little, or resorted to tilling a small acreage for the purpose of qualifying for the exemption.

(c) Where a farmer is engaged in lumbering operations on logs or timber grown on other farms as well as his own, such operations would not seem to be incidental to or in conjunction with his farming operations. In our opinion such operations would not fall within the exemption.

(d) Under section 3 (f) forestry or lumbering operations are within the agriculture exemption when performed by a farmer or on a farm, but only "as an incident to or in conjunction with such farming operations." This excludes from the exemption logging or sawmill operations on a farm undertaken on behalf of the farmer or on behalf of the buyer of the logs or the resulting lumber by a contract logger or sawmill owner, unless it can be shown that these logging or sawmill operations are clearly incidental to farming operations on the farm on which the logging or sawmill operations are being conducted. For example, the clearing of additional land for immediate cultivation by the farmer or the preparation of timber for construction of his farm buildings would appear to constitute operations incidental to farming.

§ 780.64 *Exemption not based on number of employees.* Many inquiries have been made as to whether the act applies to employers engaged in forestry or lumbering operations having a small number of employees. The act provides no exemption for employers on the basis of the number of their employees. If employees in the industry are otherwise entitled to the benefits of the act, they are not excluded from its coverage by reason of their small number.

SUBPART C—FARMERS' COOPERATIVE ASSOCIATIONS

§ 780.80 *Introductory statement.* (a) Since the enactment of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U. S. C. 201 et seq.) the views of the Administrator as to the application of the act to farmers' cooperative associations have been expressed in interpretations issued from time to time in various forms. These interpretations were always issued with the understanding that they were only advisory, so far as the rights and liabilities of employers and employees were concerned, because the courts alone had the authority to make legally binding interpretations. However, the Portal-to-Portal Act of 1947[1] contemplates that interpretations of the Administrator will now, under certain circumstances, be controlling in determining such rights and liabilities in the courts. This has made it necessary, for the protection of employees and employers who may seek to rely on the Administrator's interpretations, that interpretations previously issued concerning the application of the Fair Labor Standards Act to farmers' cooperative associations be re-examined in order to determine whether they now correctly interpret the law in the light of developments subsequent to their issuance, and that the Administrator's position be clarified for the future. This subpart, as of the date of its publication in the FEDERAL REGISTER, supersedes and replaces such prior interpretations. Its purpose is to make available in one place general interpretations of the Administrator which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it."[2] The interpretations contained in this subpart indicate, with respect to the application of the Fair Labor Standards Act to farmers' cooperative associations, the construction of the law which the Administrator believes to be correct and which will guide him in the performance of his administrative duties under the act unless and until he is otherwise directed by authoritative decisions of the courts or concludes, upon re-examination of an interpretation, that it is incorrect.

(b) Effective on the date of publication of this subpart in the FEDERAL REGISTER, all prior general and specific interpretations contained in interpretative bulletins, releases, opinion letters and other statements issued with respect to the application of the Fair Labor Standards Act to farmers' cooperative associations are rescinded and withdrawn. An interpretation so rescinded and withdrawn shall not hereafter constitute an interpretation of the Administrator unless and until it is reissued as such. However, the action of the Administrator in rescinding or withdrawing any such prior interpretation or his omission to discuss a particular problem in this subpart or in interpretations supplementing it does not constitute an administrative interpretation or practice or enforcement policy.

§ 780.81 *Exemption as dependent on engagement in "agriculture," as defined by the act.* Employees of cooperative associations, the members or stockholders of which are farmers are granted no express exemption from the provisions of the Fair Labor Standards Act. Section 13 (a) (6) however, exempts from both the wage and hours provisions of the act any employee employed in "agriculture," which is defined in section 3 (f) as including "farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended) the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market." This subpart will address itself to the question which has been raised most often by the inquiries received from farmers' cooperative associations: Are the employees employed by such associations, solely because of that fact, engaged in "* * * practices (including any forestry or lumbering operations) performed by a farmer * * * as an incident to or in conjunction with" farming operations and therefore exempt? In other words, is a farmers' cooperative a "farmer" within the meaning of section 3 (f)?

§ 780.82 *Employees of associations are not exempt merely because of members' farming activities.* (a) The phrase "by a farmer" was intended to cover practices performed either by the farmer himself or by the farmer through his employees. Employees of a farmers' cooperative, however, are employed not by the individual farmers who compose its membership or who are its stockholders, but by the cooperative association itself. Cooperative associations, whether in the corporate form or not, are distinct, separate entities from the farmers who own or compose them. The work performed by a farmers' cooperative association is not work performed by a farmer but for farmers. The legislative history of the act supports this interpretation. Statutes usually exempt farmers' cooperative associations in express terms if an exemption is intended. The omission of an express exemption from the Fair Labor Standards Act is significant since many unsuccessful attempts were made on the floor of Congress to secure special treatment for such cooperatives. Employees of a farmers' cooperative association, therefore, in our opinion, are not engaged in "any practices * * * performed by a farmer * * *" within the meaning of section 3 (f) and are not exempt on the basis of this part of the definition of "agriculture" from the wage and hours provisions of the act.

(b) This does not mean that all employees of farmers' cooperative associations are subject to the provisions of the act. They, like the employees of any other employer, if they meet the requirements, are subject to the 13 (a) (6), 7 (c) or 13 (a) (10) exemptions. See, for example, Subpart B of this part, dealing with forestry or lumbering operations. Moreover, to be subject to the provisions of the act, employees of farmers' cooperative associations, like other employees, must be engaged in interstate commerce or in the production of goods for interstate commerce.

PART 783—SEAMAN EXEMPTION

Sec.
783.0 Introductory statement.
783.1 Statutory provisions considered.
783.2 Who is "employed as a seaman," for purposes of exemption.
783.3 Related exemptions.

AUTHORITY: §§ 783.0 to 783.3, inclusive, issued under 52 Stat. 1060; 29 U. S. C., 201 et seq.

[1] Pub. Law 49, 80th Cong., Chap. 52, 1st Sess.

[2] Skidmore v. Swift & Co., 324 U. S. 134.

§ 783.0 *Introductory statement.* (a) Since the enactment of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U. S. C. 201 et seq.), the views of the Administrator as to the scope and applicability of the exemption provided by section 13 (a) (3) of the act, have been expressed in interpretations issued from time to time in various forms. These interpretations were always issued with the understanding that they were only advisory, so far as the rights and liabilities of employers and employees were concerned, because the courts alone had the authority to make legally binding interpretations. However, the Portal-to-Portal Act of 1947 [1] contemplates that interpretations of the Administrator will now, under certain circumstances, be controlling in determining such rights and liabilities in the courts. This has made it necessary, for the protection of employees and employers who may seek to rely on the Administrator's interpretations, that interpretations previously issued concerning the scope and applicability of the exemption provided by section 13 (a) (3) of the Fair Labor Standards Act, be re-examined in order to determine whether they now correctly interpret the law in the light of developments subsequent to their issuance, and that the Administrator's position be clarified for the future. This part, as of the date of its publication in the FEDERAL REGISTER, supersedes and replaces such prior interpretations. Its purpose is to make available in one place general interpretations of the Administrator which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it." [2] The interpretations contained in this part indicate, with respect to the scope and applicability of the exemption provided by section 13 (a) (3) of the Fair Labor Standards Act, the construction of the law which the Administrator believes to be correct and which will guide him in the performance of his administrative duties under the act unless and until he is otherwise directed by authoritative decisions of the courts or concludes, upon re-examination of an interpretation, that it is incorrect.

(b) Effective on the date of publication of this part in the FEDERAL REGISTER, all prior general and specific interpretations contained in interpretative bulletins, releases, opinion letters and other statements issued with respect to the scope and applicability of the exemption provided by section 13 (a) (3) of the Fair Labor Standards Act are rescinded and withdrawn. An interpretation so rescinded and withdrawn shall not hereafter constitute an interpretation of the Administrator unless and until it is reissued as such. However, the action of the Administrator in rescinding or withdrawing such prior interpretation or his omission to discuss a particular problem in this part or interpretations supplementing it does not constitute an administrative interpretation or practice or enforcement policy.

[1] Pub. Law 49, 80th Cong., Chap. 52, 1st Sess.

[2] Skidmore v. Swift & Co., 324 U. S. 134.

§ 783.1 *Statutory provisions considered.* (a) Section 13 (a) (3) of the act provides an exemption from the minimum wage provisions of section 6 and the maximum hours provisions of section 7, as follows: "The provisions of sections 6 and 7 shall not apply with respect to * * * any employee employed as a seaman * * *"

(b) The provisions of sections 6 and 7 of the act apply only to "employees * * * engaged in (interstate) commerce or in the production of goods for (interstate) commerce." See Part 776 of this chapter. This part will not deal with the question as to which "seamen" are so engaged, but will be directed solely to the scope of the exemption in section 13 (a) (3)

§ 783.2 *Who is "employed as a seaman," for purposes of exemption.* (a) An employee will ordinarily be regarded as "employed as a seaman" if he performs, as master or subject to the authority, direction, and control of the master aboard a vessel, service which is rendered primarily as an aid in the operation of such vessel as a means of transportation, provided he performs no substantial amount of work of a different character. In our opinion, this exemption extends to employees performing such service on vessels navigating inland waters as well as on ocean-going and coastwise vessels.

(b) The exemption extends to members of the crew such as sailors, engineers, radio operators, firemen, pursers, surgeons, cooks, and stewards if, as is the usual case, their service is of the type described in the preceding paragraph. However, concessionaires and their employees aboard a vessel ordinarily do not perform service subject to the authority, direction, and control of the master of the vessel except incidentally and do not come within the exemption under discussion.

(c) The exemption does not extend to employees working aboard vessels whose service is not rendered primarily as an aid in the operation of the vessel as a means of transportation. Thus, employees on floating equipment who are engaged in the construction of docks, levees, revetments or other structures, and employees engaged in dredging operations or in the digging or processing of sand, gravel, or other materials are not employed as "seamen." For the same and other reasons, stevedores and longshoremen are not regarded as "seamen." Similarly, stevedores or roustabouts traveling aboard a vessel from port to port whose principal duties require them to load and unload the vessel in port would not themselves come within the exemption even though during the voyage they may perform from time to time certain services of the same type as those rendered by other employees who would be regarded as seamen under the Act. However, an employee employed as a seaman would not be outside the exemption simply because, as an incident to that employment, he performs an insubstantial amount of nonexempt work such as assisting in the loading or unloading of baggage or freight at the beginning or end of a voyage.

(d) Barge tenders on non-self-propelled barges who perform the normal duties of their occupation, such as attending to the lines and anchors, putting out running and mooring lines, pumping out bilge water, and other similar activities necessary and usual to the navigation of barges, are considered seamen within this exemption unless they do a substantial amount of nonexempt work. Loading and unloading and activities relative thereto will be considered nonexempt work. Employees on seagoing barges would also seem to be employed as seamen if their services are of the type described in paragraph (a) of this section.

(e) Various situations are presented with respect to employees rendering watchman or similar service aboard a vessel in port. Where such services are rendered by members of the crew during a temporary stay in port or during a brief lay-up for minor repairs, such employees would be within the exemption. Where the vessel is laid up for a considerable period, members of the crew rendering watchman or similar service aboard the vessel would not appear to be within the exemption because their services are not rendered primarily as an aid in the operation of the vessel as a means of transportation. Furthermore, employees who are furnished by independent contractors to perform watchman or similar services aboard a vessel while in port would not be employed as "seamen" regardless of the period of time the vessel is in port, since their services are not of the type described in paragraph (a) of this section. The same considerations would apply in the case of a temporary or skeleton crew hired to maintain the vessel while in port so that the regular crew may be granted shore leave.

§ 783.3 *Related exemptions.* Sections 13 (a) (5) which provides an exemption from both the wage and hours provisions for employees engaged in certain operations in the seafood and fishery industry is discussed in Part 784 of this chapter. In addition, attention is directed to section 13 (b) (2) of the act, which provides an exemption from the maximum hours provisions for "any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act."

Signed at Washington, D. C., this 25th day of August 1947.

F. GRAINVILLE GRILLES, Jr.,
Acting Administrator,
Wage and Hour Division,
U. S. Department of Labor.

[F. R. Doc. 47-8267; Filed, Sept. 8, 1947; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XXIV—Department of State, Disposal of Surplus Property

[FLC Reg. 8, Amdt. 1; Dept. Reg. 103.50]

PART 8503—DISPOSAL OF SURPLUS PROPERTY LOCATED IN FOREIGN AREAS

IMPORTATIONS INTO UNITED STATES

Section 8503.15 of FLC Regulation 8 (Departmental Regulation 103.30, 11

F R. 13423) is hereby amended by adding a new paragraph (c) to the first proviso of that section so that the section will read as follows:

§ 8508.15 *Importations into the United States.* Surplus property which has been sold in foreign areas shall not be imported into the United States in the same or substantially the same form in which it was exported from the United States if such property was originally produced in the United States and is readily identifiable as such, except to the extent that the Secretary of State specifically authorizes such importations by order issued hereunder;[1] *Provided, however* That such property may be imported (a) on consignment to a person or firm in the United States for the purpose of reconditioning for re-export, or (b) by a veteran (including a member of the armed forces) if brought in for his personal use, or (c) if sold primarily as scrap metal and brought in for use as scrap metal, and upon certification by the importer to the Treasury Department that the importation is being made for one of such purposes; *Provided further* That for the purpose of this section, foreign areas shall not include Guam or other Pacific insular possessions. Nothing in this section shall prevent surplus property which is owned by a Government agency from being brought into the continental United States, its territories or possessions. (58 Stat. 765, 59 Stat. 533, Pub. Law 375, 79th Cong., 60 Stat. 168, Pub. Law 584, 79th Cong., 60 Stat. 754; 50 U. S. C. App. Sup. 1611–46)

This regulation shall become effective immediately upon publication in the FEDERAL REGISTER.

Approved: August 28, 1947.

[SEAL] ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 47–8279; Filed, Sept. 8, 1947; 8:46 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, War Department

PART 207—NAVIGATION REGULATIONS

INLAND WATERWAY FROM DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1) the regulations contained in § 207.100, governing the use, administration, and navigation of that part of the Inland Waterway from Delaware River to Chesapeake Bay, Delaware and Maryland, between the Delaware River and Elk River, including the Chesapeake and Delaware Canal and the Delaware City Branch Channel, are superseded by the following:

§ 207.100 *Inland waterway from Delaware River to Chesapeake Bay, Delaware and Maryland (Chesapeake and Delaware Canal) use, administration, and navigation*—(a) *Applicability.* This section is applicable to that part of the Inland Waterway from Delaware River to Chesapeake Bay, Delaware and Maryland, between the Delaware River and Elk River, including the Chesapeake and Delaware Canal and the Delaware City Branch Channel which extends from the Delaware River at Delaware City to its junction with the Canal about 1.5 miles west of Reedy Point.

(b) *Supervision.* The District Engineer, Corps of Engineers, Philadelphia, Pennsylvania, has administrative supervision over the waterway and is charged with the enforcement of this section. The District Engineer from time to time will prescribe the dimensions of vessels which may transit the waterway, and the special conditions which shall govern the movements of vessels using the waterway. The District Engineer's representative is the Canal Superintendent. All orders in aiding and directing traffic and in enforcing this section will be issued by the Superintendent through the dispatcher and the patrolmen on duty.

(c) *Safe navigation required.* Permission for any vessel to enter or pass through any part of the waterway will be contingent on the vessel's being properly equipped in personnel, machinery, and operative devices for safe navigation. In the event of question as to the ability of any vessel to navigate the waterway in safety, a ruling thereon will be made by the dispatcher. An appeal from the dispatcher's ruling may be taken by the owner, agent, master, or other person in charge of the vessel concerned to the District Engineer whose decision shall be final. The granting of permission for any vessel to proceed through the waterway shall not relieve the owners, agents, and operators of the vessel of full responsibility for its safe passage.

(d) *Anchorage, mooring, and wharfage facilities.* The anchorage basin on the south side of the waterway at Chesapeake City, mooring basins and tie-up dolphins on the north side of the waterway at Reedy Point and in Back Creek about one mile west of Chesapeake City, and free wharfage facilities on west side of the anchorage basin at Chesapeake City and on the north side of the Branch Channel at Delaware City, are of limited capacity, and permission to occupy them for periods exceeding 24 hours must be obtained in advance from the dispatcher at Chesapeake City. The mooring dolphins provided on each side of the vertical lift bridges shall be used for mooring in emergencies only. Any craft using these anchorage, mooring, and wharfage facilities must have on board at all times a crew adequate to care properly for the vessel, and the United States assumes no responsibility for damages which may be sustained while using such facilities.

(e) *Projections from vessels.* No vessel carrying a deck load which overhangs or projects beyond the sides of the vessel will be permitted to enter or pass through the waterway. Vessels carrying rods, poles, or other gear extending above the top of the vessel's mast will be required to lower such equipment to a level with the top of the mast before entering the waterway.

(f) *Speed.* No vessel in the waterway or approaches shall be raced or crowded alongside another vessel, or be moved at such speed as will cause excessive swells or wash. Speed shall be kept at a minimum consistent with safe navigation. All vessels, when passing other vessels, mooring dolphins, wharves, landings, dredging plant, or other working craft, shall proceed with caution to avoid wave or suction damage. When approaching any bridge the speed of vessels shall be so regulated that they will be under full control and, in the event the span cannot be raised immediately, be able to stop and tie up at the emergency dolphins.

(g) *Tows.* All ships or tugs engaged in towing vessels not equipped with a rudder, whether light or loaded, shall use two towlines or a bridle on one towline. If the vessel in tow is equipped with a rudder one towline without a bridle may be used. All towlines must be hauled as short as practicable for safe handling of the tows. No towboat will be permitted to enter the waterway with more than two loaded, or three light, barges. Two or more barges or other vessels, not self-propelled, shall be towed abreast and not in tandem, using two towlines unless the towboat is made fast alongside the tow. Such tows shall have a combined beam of not more than 105 feet, including the towboat if made fast alongside.

(h) *Right of way.* All vessels proceeding with the current shall have the right of way over those proceeding against the current. Vessels up to 150 feet in length shall be operated so as not to interfere with the operation of vessels of greater length at bridges and bends. Large vessels or tows must not overtake and attempt to pass other large vessels or tows in the waterway.

(i) *Traffic lights.* (1) Navigation in and through the waterway shall be governed by the following system of traffic control lights. These lights, which are fixed type, are located on the outer end of the north jetty at the eastern entrance to the waterway, at Lorewood Grove about one mile east of the Pennsylvania Railroad bridge, and on the south bank of the waterway about one mile west of Chesapeake City.

(i) *Green light.* Waterway open to navigation. Vessel may proceed.

(ii) *Amber light.* Caution. Traffic restricted.

(iii) *Red light.* Waterway closed to traffic. Vessel must stop.

(2) In addition to the above system of lights, navigation shall be governed by the lights installed at the drawbridges crossing the waterway as described in paragraph (j) of this section. Traffic lights controlling the approach of eastbound or westbound ships to the Chesapeake City ferry route are located at the Chesapeake City Suboffice. Normally the green light will be showing. Flashing amber and flashing red lights mean the same as those at the drawbridges.

[1] The Secretary of State upon the request of the Director of War Mobilization and Reconversion, has exempted from the prohibition of this section certain property found by the Director of War Mobilization to be needed for reconversion in the United States. The items exempted are listed in Schedules A and B of Order 6 under this part, April 18, 1947 and supplements thereto (12 F. R. 2521, 3186, 4842).

(i) *Drawbridges.* (1) The signal for the opening of a drawbridge shall be three blasts of a whistle or horn blown by the vessel or craft desiring to pass. If the drawspan is to be opened immediately the bridge tender will reply with one blast of a whistle or horn. If the drawspan is not to be opened immediately the bridge tender will reply with two blasts of a whistle or horn; thereafter four blasts of a whistle or horn will be blown by the bridge tender to indicate that the bridge is open to navigation and that the vessel may proceed.

(2) The foregoing horn or whistle signals by the bridge tender will be supplemented by the following lights shown at the center of the drawspan in addition to and above the navigation lights referred to in subparagraph (3) of this paragraph:

(i) *Flashing red light.* Vessel must stop and tie up before reaching bridge.

(ii) *Flashing amber light.* Delay approach until vessel coming from opposite direction clears bridge.

(3) The following navigation lights prescribed by the Coast Guard will be shown at the center of the drawspan below the lights referred to in subparagraph (2) of this paragraph:

(i) *Fixed red light.* Bridge closed to navigation. Vessel unable to pass under closed drawspan must be kept under control so it can be stopped if necessary.

(ii) *Fixed green light.* Bridge open to navigation. Vessel may proceed.

(4) The drawbridge crossing the Branch Channel at Delaware City will be opened for the passage of vessels only between 8:00 a. m. and 4:00 p. m. Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw, at least two hours' advance notice of the time the opening is required shall be given to the dispatcher at Chesapeake City.

(k) *Stopping in waterway.* Whenever a vessel stops in the land cut elsewhere than at the mooring dolphins, it shall be fastened securely to one bank and only at such place and under such conditions as will not obstruct the passage of other vessels or craft. When thus tied up all vessels must be moored by not less than two lines each, and no vessel shall be tied up abreast of another. Sufficient crew to care properly for such vessels shall remain on board at all times. Vessels that have been tied up or anchored in or at the entrance to the waterway shall not proceed until given clearance by the dispatcher. Stoppages in the improved portions of the waterway shall be only for such periods as may be necessary, and no vessel or craft will be allowed to use such portions of the waterway as a permanent or semipermanent place of mooring without the permission of the District Engineer. Vessels may anchor in Elk River, but they shall not anchor in the channel, and during the night they shall display lights as required by the Federal Pilot Rules.

(l) *Refuse.* The placing of any ashes, refuse, or other material likely to cause an obstruction in the waterway or upon the banks or rights of way thereof is prohibited.

(m) *Trespass upon or injury to waterway property.* Trespass upon the waterway property or injury to the waterway, lands, banks, bridges, jetties, piers, fences, houses, trees, telephone lines, or any other property of the United States pertaining to the waterway is prohibited.

(n) *Fish and game.* The fish and game laws of the United States and of the States of Delaware and Maryland, within their respective bounds, will be enforced upon the waters and lands pertaining to the waterway owned by the United States. The use of traps and nets upon the property is forbidden except on written permission from the District Engineer.

(o) *Grounded, wrecked, or damaged vessels.* In the event a vessel is grounded or wrecked in the waterway or is so damaged by accident as to render it likely to become an obstruction in the waterway, the District Engineer shall supervise and direct all operations that may be necessary to float the vessel, clear the wreckage, or move the damaged vessel to a safe locality.

(p) *Commercial statistics.* Masters or pursers of vessels shall furnish the District Engineer or his authorized representative, on each passage through the waterway, such written statement of passengers, freight, and vessel data as may be indicated by blank forms furnished for this purpose. Failure to furnish this statement will result in denial to the offending vessel of the privilege of using the waterway. Blank forms may be obtained from the following:

(1) District Engineer, Philadelphia District, Corps of Engineers, 1400 Penn Mutual Building, Philadelphia 1, Pennsylvania.

(2) District Engineer, Baltimore District, Corps of Engineers, 24th Street and Maryland Avenue, Baltimore 3, Maryland.

(3) Resident Engineer, Chesapeake City Suboffice, Philadelphia District, Corps of Engineers, Chesapeake City, Maryland.

(4) Patrol boats in the waterway.

(5) Pilots.

[Regs. Aug. 11, 1947 (800.211, Chesapeake-Delaware Canal)—ENGWR] (40 Stat. 266; 33 U. S. C. 1)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-8272; Filed, Sept. 8, 1947; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 403]

WASHINGTON

REVOKING IN PART PUBLIC LAND ORDER 164 OF SEPTEMBER 6, 1943 WITHDRAWING PUBLIC LANDS FOR THE USE OF WAR DEPARTMENT AS AERIAL GUNNERY AND BOMBING RANGES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Public Land Order No. 164 of September 6, 1943, withdrawing public lands for the use of the War Department as aerial gunnery and bombing ranges, is hereby revoked so far as it affects the following-described public lands:

Willamette Meridian

T. 17 N., R. 23 E.,
secs. 28 and 32.

The areas described aggregate 1280 acres.

The lands are subject to the order of April 26, 1937, of the Secretary of the Interior withdrawing certain lands for reclamation purposes.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

AUGUST 29, 1947.

[F. R. Doc. 47-8265; Filed, Sept. 8, 1947; 8:45 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Rev. S. O. 369]

PART 95—CAR SERVICE

DEMURRAGE CHARGES ON CLOSED BOX CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 2d day of September A. D. 1947.

It appearing, that closed box cars are being delayed unduly in loading and unloading, or while held for orders or other disposition causing a shortage of equipment and impeding and diminishing the use, control, supply, movement, distribution, exchange, interchange, and return of closed box cars; in the opinion of the Commission an emergency requiring immediate action exists in all sections of the country. It is ordered, that:

§ 95.369 *Demurrage charges on closed box cars*—(a) *Closed box cars not subject to an average agreement.* When demurrage detention occurs, for which charges are or may be lawfully provided by tariffs, the demurrage charges on a box car, not included in an average agreement, held for orders, bill of lading, payment of freight charges, reconsignment, diversion, reshipment, inspection, forwarding directions, loading or unloading shall be $2.20 per car per day or a fraction thereof for the first two (2) days; $5.50 per car per day or a fraction thereof for the third day; $11 per car per day or a fraction thereof for the fourth day; and $16.50 per car per day or a fraction thereof for each succeeding day.

(b) *Closed box cars subject to an average agreement.* When demurrage detention occurs, for which charges are or may be lawfully provided by tariffs, the demurrage charges on a closed box car, included in an average agreement, held for orders, bill of lading, payment of freight charges, reconsignment, diversion, reshipment, inspection, forwarding directions, loading or unloading shall be $2.20 per car per day or a fraction thereof for the first two (2) days; $5.50 per car per day or a fraction thereof for the third day; $11 per car per day

or a fraction thereof for the fourth day; and $16.50 per car per day or a fraction thereof for each succeeding day. The $2.20 per day debit charges may be offset or reduced by accrued credits as provided in applicable demurrage tariffs: *Provided however,* That the $5.50 per day, $11 per day, and $16.50 per day charges may not be offset or reduced except on run-around cars.

(c) *Application.* (1) The provisions of this section shall apply to intrastate and interstate traffic as well as foreign traffic, subject to the following exceptions:

Exceptions. Import, export, coastwise (including Great Lakes) or intercoastal bulk freight or explosives traffic, during the period such traffic is held in cars at ports for transfer to vessels or held at United States-Canadian border crossings, is not subject to this section. Bulk freight means any carload freight consisting of any non-liquid, nongaseous commodity shipped loose or in mass and which in the unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed, or which is not in containers or in units of such size as to permit piece by piece unloading.

(2) *Designation of closed box cars.* This section shall apply to closed box cars suitable for interchange having a mechanical designation in the current official Railway Equipment Register prefixed by "X" or "V" also "BX" but only when the latter cars are used in freight service.

(3) *Run-around cars.* Allowance for run-arounds attributable to railroad errors or failures in switching, on cars subject to average agreement, shall not be made except on cars held beyond the first two debit days. Those two debits may be offset by accrued credits.

(4) *Computation of demurrage on effective date of order* The number of days a closed box car has been held prior to the effective date of this section, counted according to demurrage tariff rules, shall determine the charges applicable on that closed box car on the effective date of this section.

(d) *Effective date.* This section shall become effective at 7:00 a. m., September 8, 1947.

(e) *Expiration date.* This section shall expire at 7:00 a. m., March 1, 1948, unless otherwise modified, changed, suspended or annulled by order of the Commission.

(f) *Tariff provisions suspended.* (1) Except as provided in subparagraph (2) of this paragraph the operation of all tariff rules, regulations or charges insofar as they conflict with the provisions of this section is hereby suspended.

(2) This section shall not affect Demurrage Rule 8 of Agent B. T. Jones' Tariff I. C. C. No. 3963 or similar rules in other tariffs; relating to adjusting, canceling or refunding demurrage charges arising from the unusual conditions or circumstances described in the said Rule 8 or similar rules in other tariffs.

(g) *Announcement of suspension.* Each railroad, or its agent, shall publish, file and post a supplement to each of its tariffs affected thereby, in substantial accordance with the provisions of Rule 9 (k) of the Commission's Tariff Circular No. 20 (§ 141.9 (k) of this chapter) announcing the suspension of the operation of any of the conflicting provisions therein, and establishing the substituted provisions set forth herein.

It is further ordered, that this order shall vacate and supersede Service Order No. 369, as amended, on the effective date hereof a copy of this order and direction shall be served upon each State railroad regulatory body and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)–17))

By the Commission, Division 3.

[SEAL] W P BARTEL, *Secretary.*

[F. R. Doc. 47-8264; Filed, Sept. 8, 1947; 8:58 a. m.]

[S. O. 434, Amdt. 6]

PART 95—CAR SERVICE

FREE TIME ON BOX CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 2d day of September A. D. 1947.

Upon further consideration of the provisions of Service Order No. 434 (11 F R. 893) as amended (11 F R. 2190, 10771, 12308; 12 F. R. 48, 4142) and good cause appearing therefor: *It is ordered,* That:

(a) Service Order No. 434, as amended, be, and it is hereby, further amended by substituting the following paragraph (b) of § 95.434, *Free time on box cars,* for paragraph (b) thereof:

(b) *Computation of free time.* (1) All Sundays and legal holidays shall be included in computing the free time provided in paragraph (a) of this section.

(2) The free time provided in paragraph (a) of this section shall be computed continuously from the first 7:00 a. m. after notice of arrival is sent, or after actual or constructive placement (whichever occurs first) until final release, except that allowance shall be made when demurrage accrues because the railroad fails to render normal switching service.

It is further ordered, That this order shall become effective at 7:00 a. m., September 8, 1947; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)–17))

By the Commission, Division 3.

[SEAL] W. P BARTEL, *Secretary.*

[F. R. Doc. 47-8260; Filed, Sept. 8, 1947; 8:58 a. m.]

[Rev. S. O. 558, Amdt. 4]

PART 95—CAR SERVICE

REFRIGERATOR CARS FOR FRUIT AND VEGETABLE CONTAINERS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 2d day of September A. D. 1947.

Upon further consideration of Revised Service Order No. 558 (11 F R. 11617), as amended (11 F R. 12233, 14523; 12 F R. 4002) and good cause appearing therefor It is ordered, that:

Section 95.558 *Substitution of refrigerator cars for box cars, to transport fruit and vegetable containers and box shooks,* of Revised Service Order No. 558, be, and it is hereby, further amended by substituting the following paragraph (a) (1) for paragraph (a) (1) thereof:

(a) (1) Except as provided in paragraph (a) (2), common carriers by railroad subject to the Interstate Commerce Act transporting fruit and vegetable containers, box shooks or other packaging or packing materials, in carloads, from origins located in the States of California, Oregon, Washington or Nevada, to destinations in the State of California may, at their option, furnish and transport not more than three (3) refrigerator cars in lieu of each box car ordered, subject to the carload minimum weight which would have applied if the shipment had been loaded in a box car.

It is further ordered, that this amendment shall become effective at 12:01 a. m., September 4, 1947; that a copy of this order be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)–(17))

By the Commission, Division 3.

[SEAL] W. P BARTEL, *Secretary.*

[F. R. Doc. 47-8262; Filed, Sept. 8, 1947; 8:58 a. m.]

[Rev. S. O. 653]

PART 95—CAR SERVICE

DEMURRAGE ON GONDOLA, OPEN AND COVERED HOPPER CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 2d day of September A. D. 1947.

It appearing, that gondola, open and covered hopper cars are being delayed unduly in loading and unloading, or while held for orders, bill of lading, payment of freight charges, reconsignment, diversion, reshipment, inspection or forwarding directions, causing a shortage of equipment and impeding and diminishing the use, control, supply, movement, distribution, exchange, interchange, and return of such cars; in the opinion of the Commission an emergency requiring immediate action exists in all sections of the country. It is ordered, that:

§ 95.653 *Demurrage on gondola, open and covered hopper cars*—(a) *Cars not subject to an average agreement.* When demurrage detention occurs, for which charges are or may be lawfully provided by tariffs, the demurrage charges on a gondola, open or covered hopper car, not included in an average agreement, held for orders, bill of lading, payment of freight charges, reconsignment, diversion, reshipment, inspection, forwarding directions, loading or unloading shall be $2.20 per car per day or a fraction thereof for the first two (2) days; $5.50 per car per day or a fraction thereof for the third day; $11 per car per day or a fraction thereof for the fourth day; and $16.50 per car per day or a fraction thereof for each succeeding day.

(b) *Cars subject to an average agreement.* When demurrage detention occurs, for which charges are or may be lawfully provided by tariffs, the demurrage charges on a gondola, open or covered hopper car, included in an average agreement, held for orders, bill of lading, payment of freight charges, reconsignment, diversion, reshipment, inspection, forwarding directions, loading or unloading shall be $2.20 per car per day or a fraction thereof for the first two (2) days; $5.50 per car per day or a fraction thereof for the third day; $11 per car per day or a fraction thereof for the fourth day; and $16.50 per car per day or a fraction thereof for each succeeding day. The $2.20 per day debit charges may be offset or reduced by accrued credits as provided in applicable demurrage tariffs; provided, however, that the $5.50 per day, $11 per day, and $16.50 per day charges may not be offset, or reduced, except on run-around cars.

(c) *Application.* (1) The provisions of this section shall apply to intrastate and interstate traffic as well as foreign traffic, subject to the following exceptions:

Exceptions. Import, export, coastwise (including Great Lakes) or intercoastal bulk freight (including vessel fuel coal and coke) or explosives traffic, during the period such traffic is held in cars at ports for transfer to vessels or held at United States-Canadian border crossings, is not subject to this section. Bulk freight means any carload freight consisting of any non-liquid, non-gaseous commodity shipped loose or in mass and which in the unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed, or which is not in containers or in units of such size as to permit piece by piece unloading.

(2) *Description of cars.* This section shall apply to cars suitable for interchange described under the headings Class G—Gondola Car Type, Class H—Hopper Car Type, also covered hopper cars having a mechanical designation "LO" or gondolas "MWB" in the current Official Railway Equipment Register.

(3) *Run-around cars.* Allowance for run arounds attributable to railroad errors or failures in switching, on cars subject to average agreement, shall not be made except on cars held beyond the first two debit days. Those two debits may be offset by accrued credits.

(4) *Computation of demurrage on effective date of order.* The number of days a car has been held prior to the effective date of this section, counted according to demurrage tariff rules, shall determine the charges applicable on that car on the effective date of this section.

(b) *Effective date.* This section shall become effective at 7:00 a. m., September 8, 1947.

(c) *Expiration date.* This section shall expire at 7:00 a. m., March 1, 1948, unless otherwise modified, changed, suspended or annulled by order of the Commission.

(f) *Tariff provisions suspended.* (1) Except as provided in subparagraph (2) of this paragraph the operation of all rules, regulations or charges, insofar as they conflict with the provisions of this section, is hereby suspended.

(2) This section shall not change Demurrage Rule 8 of Agent B. T. Jones' Tariff I. C. C. No. 3963 as amended or as reissued or similar rules in other tariffs, relating to adjusting, canceling or refunding demurrage charges arising from the unusual conditions or circumstances described in the said Rule 8 or similar rules in other tariffs.

(g) *Announcement of suspension.* Each railroad, or its agent, shall publish, file and post a supplement to each of its tariffs affected thereby, in substantial accordance with the provisions of Rule 9 (k) of the Commission's Tariff Circular No. 20. (§ 141.9 (k) of this chapter) announcing the suspension of the operation of any of the conflicting provisions therein, and establishing the substituted provisions set forth herein.

It is further ordered, that this order shall vacate and supersede Service Order No. 653, as amended, on the effective date hereof; a copy of this order and direction be served upon the State railroad regulatory bodies of each State, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901, 49 U. S. C. 1 (10)–(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 47-8263; Filed, Sept. 8, 1947; 8:53 a. m.]

[S. O. 758, Amdt. 1]

PART 95—CAR SERVICE

FREE TIME AT PORTS ON GONDOLA, OPEN AND COVERED HOPPER CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 2d day of September A. D. 1947.

Upon further consideration of the provisions of Service Order No. 758 (12 F. R. 4029) and good cause appearing therefor: *It is ordered,* That:

Service Order No. 758, be, and it is hereby, amended by substituting the following paragraph (b) of § 95.758 *Free time at ports on gondola, open and covered hopper cars,* for paragraph (b) thereof:

(b) *Computation of free time.* (1) All Sundays and legal holidays shall be included in computing the free time provided in paragraph (a) of this section.

(2) The free time provided in paragraph (a) of this section shall be computed continuously from the first 7:00 a. m. after notice of arrival is sent, or after actual or constructive placement (whichever occurs first) until final release, except that allowance shall be made when demurrage accrues because the railroad fails to render normal switching service.

It is further ordered, That this order shall become effective at 7:00 a. m., September 8, 1947; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)–(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 47-8261; Filed, Sept. 8, 1947; 8:53 a. m.]

PROPOSED RULE MAKING

CIVIL AERONAUTICS BOARD

[14 CFR, Part 228]

FREE TRAVEL FOR POSTAL EMPLOYEES

NOTICE OF PROPOSED AMENDMENT OF REGULATIONS

The Civil Aeronautics Board has under consideration the amendment of § 228.1 (a) (3) of its Economic Regulations, for the purpose of adding the Chief Inspector and the Assistant Chief Inspector of the Post Office Department to the list of postal officers who are to be carried free when traveling on official business relating to the transportation of mail by aircraft upon the exhibition of credentials as provided in paragraph (b) (1) of § 228.1. There would be added, at the end of subparagraph (3) of § 228.1 (a) the following language: "the Chief Inspector and the Assistant Chief Inspector" No other change in the regulations would be involved.

The amendment is proposed under the authority of sections 205 (a) and 405 (m) of the Civil Aeronautics Act of 1938 as amended (52 Stat. 984, 994 as amended; 49 U. S. C. 425, 485)

Written comments should be submitted to the Secretary, Civil Aeronautics Board, Washington 25, D. C., on or before September 19, 1947.

§ 228.1 *Free travel for postal employees.* (a) *Postal employees to be carried free.* * * *

(3) The Assistant Postmaster General who at the time is charged with the duty of the general management of post offices; the Assistant Postmaster General who at the time is assigned the supervision of Air Postal Transport, his Confidential Assistant, his Under Second Assistant, and his four Deputy Second Assistants; the Solicitor of the Post Office Department and the Assistant Solicitor, and any attorney in the Office of the Solicitor who at the time is assigned by the Solicitor to handle matters relating to the transportation of mail by aircraft; the Chief Inspector and the Assistant Chief Inspector.

(52 Stat. 984, 994 as amended; 49 U. S. C. 425, 485)

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-8281; Filed, Sept. 8, 1947; 8:54 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9668]

FRANZISKA W. TAUBERT ET AL.

In re: Stock owned by Franziska W. Taubert and others. F-28-8030-D-1, F-28-23681-D-1, F-28-12137-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Franziska W. Taubert, whose last known address is Bellealliance Str. 48-T, Hamburg 19, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the personal representatives, heirs, next of kin, legatees and distributees of Eliza Oest, deceased, and the personal representatives, heirs, next of kin, legatees and distributees of Frank Schott, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That the property described as follows:

Seven (7) shares of $25 par value common capital stock of Pacific Gas and Electric Company, 245 Market Street, San Francisco 6, California, a corporation organized under the laws of the State of California, evidenced by certificates numbered NF 2672, NF 3128 and NF 13956 for four (4) one (1) and two (2) shares respectively, registered in the name of Franziska W. Taubert, together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by Franziska W Taubert, the aforesaid national of a designated enemy country (Germany)

4. That the property described as follows:

Fifty (50) shares of $25 par value 6% first preferred capital stock of Pacific Gas and Electric Company, 245 Market Street, San Francisco, California, a corporation organized under the laws of the State of California, evidenced by the certificates whose numbers are listed below, registered in the names of the persons listed below in the amounts set forth opposite said names as follows:

Certificate No.	Name in which registered	Number of shares
F 69014	Eliza Oest	20
F 38655	Frank Schott	30

together with all declared and unpaid dividends thereon,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the personal representatives, heirs, next of kin, legatees and distributees of Eliza Oest, deceased, and the personal representatives, heirs, next of kin, legatees and distributees of Frank Schott, deceased, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

5. That to the extent that the person named in subparagraph 1 hereof, the personal representatives, heirs, next of kin, legatees and distributees of Eliza Oest, deceased, and the personal representatives, heirs, next of kin, legatees and distributees of Frank Schott, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 13; 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-8252; Filed, Sept. 5, 1947; 8:48 a. m.]

[Vesting Order 9682]

TAKYOSHI KARAKANE

In re: Estate of Takyoshi (Takayoshi) Karakane, deceased. File D-39-18390; E. T. sec. 14076.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kie Karakane, whose last known address is Japan, is a resident of

Japan and a national of a designated enemy country (Japan)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the Estate of Takyoshi (Takayoshi) Karakane, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Japan),

3. That such property is in the process of administration by Sayeko Yawata, as Administratrix, acting under the judicial supervision of the Probate Court of Cook County, Chicago, Illinois;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-8253; Filed, Sept. 5, 1947; 8:48 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-880]

TEXAS EASTERN TRANSMISSION CORP.

ORDER POSTPONING DATE OF ORAL ARGUMENT

SEPTEMBER 2, 1947.

It appearing to the Commission that:

Good cause exists for postponement of oral argument heretofore set by order of the Commission for September 22, 1947, at 10:00 a. m. (e. d. s. t.) in the Hearing Room of the Commission, 1800 Pennsylvania Avenue, NW., Washington, D. C.

The Commission orders that:

The oral argument heretofore set for September 22, 1947, in Docket No. G-880 be and the same is hereby postponed to September 25, 1947, at the same hour and place as heretofore ordered in this matter.

Date of issuance: September 3, 1947.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-8266; Filed, Sept. 8, 1947; 8:45 a. m.]

[Docket No. G-914]

MEMPHIS NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEPTEMBER 4, 1947.

Notice is hereby given that, on September 4, 1947, the Federal Power Commission issued its findings and order entered September 2, 1947, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-8276; Filed, Sept. 8, 1947; 8:46 a. m.]

[Docket No. G-923]

UNITED NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

SEPTEMBER 4, 1947.

Notice is hereby given that, on September 4, 1947, the Federal Power Commission issued its findings and order entered September 2, 1947, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-8277; Filed, Sept. 8, 1947; 8:46 a. m.]

[Docket No. G-932]

EAST OHIO GAS CO.

ORDER FIXING DATE OF HEARING

SEPTEMBER 3, 1947.

Upon consideration of the application filed on August 6, 1947, and the supplement thereto filed on August 25, 1947, by The East Ohio Gas Company (Applicant) an Ohio corporation having its principal place of business at Cleveland, Ohio, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas facilities as fully described in such application on file with the Commission and open to public inspection, or, in the alternative, a finding that Applicant is not a "natural-gas company", subject to the jurisdiction of the Commission under the provisions of said act, public notice of said application having been given, including publication in the FEDERAL REGISTER on August 28, 1947 (12 F. R. 5794-5795)

The Commission orders that:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure (as amended June 16, 1947), a public hearing be held commencing on September 17, 1947, at 9:30 a. m., (e. d. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by the application and other pleadings in this proceeding.

(B) Interested State commissions may participate as provided by Rule 8 and 37 (f) (18 CFR 1.8 and 1.37 (f) of the said rules of practice and procedure.

Date of issuance: September 4, 1947.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-8278; Filed, Sept. 8, 1947; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 231]

RECONSIGNMENT OF POTATOES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008) permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., August 30, 1947, by National Produce Distributors, of car FGE 34750, potatoes, now on the Chicago Produce Terminal to Cleveland, Ohio (NKP)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 2d day of September 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-8258; Filed, Sept. 8, 1947; 8:58 a. m.]

[S. O. 396, Special Permit 232]

RECONSIGNMENT OF TOMATOES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., September 2, 1947, by Gust Relias, of car PFE 61655, tomatoes, now on the Wabash Railroad to New York, N. Y. (P. R. R.)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 2d day of September 1947.

HOMER C. KING,
Director
Bureau of Service.

[F. R. Doc. 47-8259; Filed, Sept. 8, 1947; 8:58 a. m.]

SECURITIES AND EXCHANGE COMMISSION

EDWIN W SHAW

ORDER REVOKING REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 29th day of August A. D. 1947.

In the matter of Edwin W Shaw, 332 Bewley Building, Lockport, New York.

Proceedings having been instituted under section 15 (b) of the Securities Exchange Act of 1934 to determine whether the registration of Edwin W Shaw as a dealer should be revoked; a hearing having been held after appropriate notice; the Commission being duly advised in the premises and having this day issued its findings and opinion; on the basis of said findings and opinion,

It is ordered, That the registration of Edwin W. Shaw as a dealer be, and the same hereby is, revoked.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant to the Secretary.

[F. R. Doc. 47-8268; Filed, Sept. 8, 1947; 8:48 a. m.]

[File No. 70-1579]

SOUTHERN NATURAL GAS CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa. on the 2d day of September A. D. 1947.

Southern Natural Gas Company ("Southern Natural") a registered holding company and a subsidiary of Federal Water and Gas Corporation, also a registered holding company, has filed a declaration and an amendment thereto, pursuant to section 7 of the Public Utility Holding Company Act of 1935, regarding the following transactions:

Southern Natural proposes the issuance and sale to The Chase National Bank of the City of New York and twelve other banks, pursuant to loan agreements, of its promissory notes in the aggregate principal amount of $5,000,000 maturing two years from the date of delivery and bearing an interest rate of 1¾% per annum. The proceeds of such loan are to be used for the construction of additions and extensions to Southern Natural's pipe line system.

Declarant having stated that no commission other than this Commission has jurisdiction over the proposed transactions; and

The declaration having been filed July 28, 1947, the amendment thereto having been filed August 18, 1947, and notice of the filing having been given in the form and manner prescribed by Rule U-23 promulgated under the act, and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Southern Natural having requested that the Commission take appropriate action to accelerate its order herein and that said order become effective forthwith; and

The Commission finding with respect to said declaration, as amended, that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and that no adverse findings are necessary thereunder, and deeming it appropriate in the public interest and in the interests of investors and consumers that said declaration, as amended, be permitted to become effective, and also deeming it appropriate that the request for acceleration of the effective date of said declaration, as amended, be granted:

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid declaration, as amended, be, and the same hereby is, permitted to become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-8269; Filed, Sept. 8, 1947; 8:45 a. m.]

[File No. 70-1603]

WISCONSIN PUBLIC SERVICE CORP.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Penna., on the 28th day of August 1947.

Notice is hereby given that a declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by Wisconsin Public Service Corporation ("Wisconsin") a subsidiary of Standard Gas and Electric Company, a registered holding company. Declarant has designated sections 6 (a) and 7 of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than September 9, 1947, at 12:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after September 9, 1947, said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Wisconsin proposes to borrow $2,600,000 from several banks on September 15, 1947, to be due on December 1, 1947 with the privilege of prepayment when its contemplated permanent financing is completed. Declarant states that the sums to be borrowed will be used to finance, temporarily, construction expenditures. The terms of the loans and the banks from which the loans will be made are to be supplied by amendment.

Declarant states that the transactions are not subject to the jurisdiction of any commission other than this Commission.

Declarant requests that the Commission enter its order by September 10, 1947 and that such order become effective upon the issuance thereof.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant to the Secretary.

[F. R. Doc. 47-8270; Filed, Sept. 8, 1947; 8:45 a. m.]